



Final Copy

March 23, 2007

**ETHICS COMMISSIONERS**

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Paul Voight  
Chief, Airports and Contract Division  
Department of Environmental Management (DERM)  
33 S.W. 2<sup>nd</sup> Avenue  
Miami, Fl 33130

**RE: REQUEST FOR ADVISORY OPINION RQO 07-06**

Dear Mr. Voight:

The Ethics Commission considered your request for an advisory opinion at its meeting on March 22, 2007 and rendered its opinion based on the information contained in your request.

You requested an opinion regarding whether a firm has a prohibited conflict of interest if the firm provides oversight services over a firm where the firm provides subcontractor services to the firm on an unrelated contract. Pursuant to Section 2-11.1(y), the Ethics Commission has jurisdiction over contractors and vendors.

In your letter, you advised the Ethics Commission that The Miami-Dade Transit Department recently awarded a contract to construct the Coral Way Bus Wash to C.G.. Chase Construction Company. Cherokee Enterprises Inc. (CEI) participated in the evaluation process. CEI is the engineer of record for the project. CEI is currently performing environmental engineering services for the Department of Environmental Management (DERM). Cherokee is currently performing utility engineering work related to the Coral Way Bus Wash facility and also

has some construction oversight responsibility for the project.

C.G. Chase is also performing engineering services for the Seaport. The firm is serving as Construction Manager at Risk for Deepwater Cruise Terminals. CG Chase has asked CEI to perform utilities work as a subcontractor on the Seaport contract.

The Ethics Commission found CEI may not simultaneously perform construction oversight responsibilities for CG Chase on one project and perform as a subcontractor to CG Chase on another project. The Ethics Commission has previously opined that such an arrangement constitutes a possible conflict of interest. In a series of opinions, the Ethics Commission has opined that certain contractual arrangements create an inherent conflict of interest and should be determined prior to award. For example, a conflict exists if a contractor has overlapping responsibilities on different phases of the same project (i.e. AE on one phase of the project and serving as value engineer, CIS or CM partner on another phase of the project; supervisor or prime on one phase of the project and subcontractor on another or related phase or project. Further a conflict may exist if there are overlapping roles or responsibilities between two related contracts. These arrangements create conflict because they lead to disclosure of confidential information and impair independent judgment by the contractor in the performance of its contractual obligations. Therefore, CEI may not simultaneously perform contract oversight on the Coral Way Bus Wash facility and serve as a subcontractor on the Seaport contract.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the

State of Florida Commission on Ethics if you  
have any questions regarding possible  
conflicts under state law.

Please contact the undersigned at (305) 579-  
2594 or Ardyth Walker at (305) 350-0616 if  
you have any questions regarding this  
opinion.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Robert Meyers", written in black ink.

ROBERT MEYERS  
Executive Director